

**Technical Amendment
February 27, 2020**

739 KAR 2:020. Education incentive.

RELATES TO: KRS Chapter 95A

STATUTORY AUTHORITY: KRS 95A.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.240(1) authorizes the Commission on Fire Protection Personnel Standards and Education to establish administrative regulations necessary to properly administer the Firefighters Foundation Program Fund. This administrative regulation establishes the procedures and criteria which shall be utilized to determine the eligibility of local governments and individual paid firefighters to share in the fund, and to clarify the eligibility requirements for a qualified firefighter who has been off duty for illness or other reasons to return to the service and receive incentive pay without having to be treated as a new firefighter.

Section 1. Definitions. (1) "Allowable sickness, injury or other medical causes" means reasons for which time off the job is granted by the local government for sickness, injury, or other medical causes.

(2) "Certified training" means firefighter training given by a certified instructor and approved and recorded by the commission.

(3) "Commission" means commission as defined by KRS 95A.210(1).

(4) "Department" means the Department of Housing, Buildings and Construction.

(5) "Fiscal year" means the period July 1 through June 30 of each twelve (12) month period.

(6) "Fund" means fund as defined by KRS 95A.210(2).

(7) "Professional firefighters" means an individual described in KRS 95A.210(4) who work a minimum of 2,080 hours per year as a member of a fire department or fire protection district. This definition is intended to cover jobs involving the suppression, investigation, inspection and prevention of emergency situations, but does not include a public safety officer or a peace officer who has responsibility for the prevention and detection of crime other than arson.

(8) "Incentive pay" means monies from the fund used to supplement compensation paid to professional firefighters.

(9) "Leave of absence" means a leave granted by the local government for which the firefighter is employed and for which leave the fire department or its workers' compensation carrier provides a form of compensation.

(10) "Local government" means local government as defined by KRS 95A.210(3).

Section 2. Eligibility. (1) A local government which meets the following requirements shall be eligible to participate and share in the distribution of funds if it has made application on Form KPF-1, July 14, 1998, and if the commission has determined that the local government has met the eligibility criteria as stated in KRS 95A.230.

(a) The commission shall review the qualifications of firefighters employed by local fire department units after the effective date of this administrative regulation to determine the basic training, if any, which the firefighter may be required to successfully complete prior to being eligible to participate in the fund;

(b) The fire department shall comply with all rules and administrative regulations issued by the commission to facilitate the administration of the fund and further the provisions of KRS Chapter 95A;

(c) The fire department shall comply with all provisions of law applicable to local firefighters;

and

(d) A firefighter who does not possess a high school degree or its equivalent and who has been deemed eligible to participate in the fund pursuant to KRS Chapter 95A who terminates firefighter service, forfeits his eligibility and shall meet the minimum educational requirement to reparticipate in the fund.

(2) A firefighter who possesses sufficient training to meet the basic training requirements established by the commission and who terminates or is granted a leave of absence from firefighter service for a period exceeding one (1) year (365 days) shall forfeit his eligibility. Eligibility shall be reestablished for a firefighter who returns to service upon completion of 100 hours of training and meets the minimum training requirements set forth in subsection (6) of this section. If his separation or leave of absence does not exceed one (1) year, he shall be considered eligible for participation in the fund. After the first year, a firefighter shall also have the additional amount of time equal to his time off to acquire his 100 hours of required annual training to maintain his eligibility.

(3) If a firefighter is off duty due to allowable sickness, injury, or other medical cause in his first year of employment, he shall have an additional amount of time equal to the required time off to acquire the balance of his initial 400 hours of required training. After the first year, a firefighter shall also have the additional amount of time equal to his time off to acquire his 100 hours of required training to maintain his eligibility. The firefighter shall be eligible to receive incentive pay upon completion of 100 make-up hours.

(4) A copy of the high school diploma or GED certificate for each firefighter, if required, shall be maintained by the local unit and shall be available for review by appropriate commission personnel.

(5) If, after having successfully completed a certified basic training course, a firefighter transfers from one (1) participating local unit to another, he shall be eligible to receive payments from the fund if he continues to meet the requirements of the fund as established by the commission.

(6) If a firefighter transfers from one (1) fire department to another, paid or volunteer, all certified training he has received shall be recognized by the fire department to which he has transferred and shall be credited toward his eligibility for participation in the fund.

(7) A firefighter shall not receive monies from this fund for employment with more than one (1) employer and shall not receive dual payment.

Section 3. Participation Requirements. (1) Application shall be made by local governments for new participation. Applications shall be filed on Form KPF 1, July 14, 1998, and shall be accepted from February 1 through April 30 of each year for payment to begin July 1 of that fiscal year. A local government failing to make application within the specified dates shall not be considered for participation until the next application filing period.

(2) The commission shall determine which local governments are eligible to share in the fund and may withhold or terminate payments to a local government that does not comply with the requirements of KRS Chapter 95A or the rules and administrative regulations issued by the commission.

(3) If the commission finds, upon audit or by any other means that a local government has received funds in violation of the provisions of this administrative regulation and applicable statutes, the commission shall require reimbursement for all payments erroneously or falsely made, or it may refuse to grant future eligible incentive pay awards until the amount owed is recovered by the commission.

Section 4. Local Unit Distribution of Funds. (1) The local unit shall submit a monthly incentive

request on Form KPF-2, July 1, 1998, requesting incentive pay for their eligible firefighters. Upon receipt of the incentive check, the local unit shall return Form KPF-2A, July 1, 1998, to the commission to acknowledge receipt of the monthly incentive pay.

(2) The local unit shall include the incentive compensation paid to each firefighter from the fund as a part of the firefighter's salary in determining all payroll deductions.

(3) The local unit shall provide each firefighter with a check stub or separate receipt upon which the gross amount of incentive funds paid to the firefighter shall be identified.

(4) The local unit shall disburse incentive funds during the month for which the funds are requested.

(5) The local unit shall maintain records to document that each participant devotes sufficient hours performing fire service training to qualify him for incentive pay.

(6) The local unit shall submit to the commission a quarterly report on Forms KPF-3 and 3A, July 1, 1998, to reconcile disbursement of incentive pay.

Section 5. Local Audits. (1) The local unit may be audited by the department pursuant to established procedures.

(2) For audit purposes, the local unit shall maintain accurate financial records. These records shall include, but are not limited to, the following:

- (a) Books of original entry;
- (b) Source documents supporting accounting transactions;
- (c) The general ledger;
- (d) Subsidiary ledgers;
- (e) Personnel and payroll records;
- (f) Cancelled checks; and
- (g) Any related document and record.

(3) These records shall be retained by the local unit until destruction is authorized by the commission or applicable requirements of the Department of Libraries and Archives.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Application for Incentive Pay, Form KPF-1, July 14, 1998.
- (b) Paid Firefighters Foundation Incentive Program Form, Form KPF-2, July 1, 1998.
- (c) Professional Firefighters Foundation Incentive Program Check Verification, Form KPF-2A, July 1, 1998.
- (d) Quarterly Fiscal Report, Form KPF-3, July 1, 1998.
- (e) Professional Firefighters Foundation Incentive Program Form KPF-3A, July 1, 1998 (to be used with Form KPF-3).

(2) This material may be inspected, copied, or obtained at the Commission on Fire Protection Personnel Standards and Education, 118 James Court, Lexington, Kentucky 40505~~[1049 U.S. 127 South, Suite #5, Frankfort, Kentucky 40604]~~, Monday through Friday, 8 a.m. to 4:30 p.m. (7 Ky.R. 73; Am. 448; eff. 11-6-80; 9 Ky.R. 51; eff. 8-11-82; 1053; eff. 4-6-83; 14 Ky.R. 2230; eff. 8-5-88; 16 Ky.R. 1498; 2140; eff. 4-12-90; 19 Ky.R. 2122; 2427; eff. 5-10-93; 25 Ky.R. 1197; 1604; eff. 1-8-99; Recodified from 815 KAR 45:035, 3-27-2002; Crt eff. 2-24-2020; TAm eff. 2-27-2020; Crt eff. 2-27-2020.)